

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10004 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VAJAJI RAJAJI MARVADI

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR MR ANAND, GP with MS AMIBEN YAGNIK, AGP for Respondent
Nos. 1 to 3,

MR SUNIL C PATEL for Respondent No. 4

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 16/01/97

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the order of detention dated 12/9/1996.

2. The District Magistrate, Ahmedabad, with a view

to preventing the petitioner from acting in any manner prejudicial to the maintenance of supply of essential commodities, found it necessary to detain him and consequently, the authority passed the impugned order in exercise of his powers as conferred by section 3(2) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as the P.B.M. Act, 1980).

3. The respondents nos. 1 and 4 have filed their respective affidavits-in-reply in answer to rule having been issued.

4. It is contended by the learned counsel that the detaining authority has placed reliance on sale bills issued by the petitioner for arriving at the subjective satisfaction that the petitioner has acted prejudicial to the maintenance of supplies of essential articles i.e. kerosene. However, the petitioner has not been supplied with the sale bills nos. 210, 212, 213, 229, 231, 233, 236, 237, 238 and 241 and other sale bills. It is submitted that the said bills were asked for in the representation dated 4/12/1996, however, the request of the petitioner has not been acceded to and thus, there is non-compliance of the grounds, as required by Article 22(5) of the Constitution of India. The learned counsels appearing for the respondents have verified from the record supplied to the petitioner and fairly submitted that the copies of such bills appear to have not been supplied.

5. In the background of the aforesaid facts, it has been submitted on behalf of the respondents that the petitioner was given a chart alongwith the order of detention in which details of the bills have been reflected and in that view of the matter it was not necessary to supply the copies of each and every bill.

6. I have heard the learned counsels for the rival parties. It is evident from the grounds of detention that the detaining authority has placed reliance on various bills issued on 3/7/1996, 4/7/1996 and 8/7/1996. The aforesaid bills are of 8/7/1996. In the absence of copies of the bills it would not be possible for the petitioner to verify the correctness of the statements made in the chart. Since the petitioner has not been supplied with the copies of such bills, the mandate of Article 22(5) of the Constitution cannot be said to have been complied with. That would lead to the conclusion that the petitioner has been deprived of his right to make effective and adequate representation against the

impugned order of detention. This ground alone would be sufficient to vitiate the impugned order of detention. This conclusion would stand fortified by the decision in the case of Budhabhai Somabhai Parmar v. District Magistrate, Kheda reported in 30 (1) GLR 325 and in Special Civil Application No. 8318 of 1996 between Bachulal Munnalal Jain v. State of Gujarat and others decided on 29/11/1996 (Coram : N.N. Mathur, J.), being the matter of the co-detenu.

7. In view of what is stated above, the impugned order of detention is quashed and set aside. It is directed that the detenu-Vajaji Rajaji Marvadi shall be set at liberty forthwith, if he is not required in any other case. Rule made absolute accordingly.

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